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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,030	05/26/2000	Robert A. Gilman	JANCO 3.0-001	8146

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER

DIEP, NHON THANH

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/579,030

Applicant(s)

GILMAN ET AL.

Examiner

Nhon T Diep

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 02 July 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☒ Applicant's reply has overcome the following rejection(s): 35 USC 103 (a) of claim 19.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: 19.Claim(s) rejected: 1-18 and 20.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 6/21/2004 have been fully considered but they are not persuasive.

First of all, claim 18 is rejected under 35 USC 103(a) as claim 14 as indicated in paragraph 5 of the final rejection mailed out on 12/29/2003. The examiner noted that, as a matter of typo error, paragraph 5 indicated claims 14 and 19 (instead of claim 18); however, claims 18 is broader than claim 14 and it should be recognized by the applicants.

With respect to claim 1 and with regard to the applicants argument that the examiner should review the applicants last response related to the Kerchner's shortcoming (page 2, ln. 26 page 3, ln. 14), the examiner would like to indicate that the present 35 USC 103(a) rejections (Heo in view of Kerchner) were used in response to the applicants amendment and these rejections were not presented before. With regard to claim 1, the examiner contends that Heo discloses all the limitations as claimed in claim 1 except that Heo does not disclose a display built within the door of the microwave and that the examiner uses the Kerchner's reference to show that the door of the microwave has been used as a display (figs. 1 and 12, el. 20).

With regard to the applicants argument that: "In the present rejection, Examiner states conclusorily that it would have been obvious one of ordinary skill the art to modify Heo to use the door as a display screen as purportedly taught by Kerchner. The Examiner comes this conclusion, without analysis, but **certainly with hindsight**."

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Examiner states doing so would help increase the dimension of the display screen. **But there is nothing Heo or in Kerchner that suggests, implicitly explicitly, that display could be integrally and non-portably built within that size even consideration**" (page 3, ln. 14-28) . The examiner respectfully disagrees.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper **hindsight** reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to the argument that **there is nothing Heo or in Kerchner that suggests, implicitly explicitly, that display could be integrally and non-portably built within that size was even a even consideration**". It is the examiner's opinion that the display of Heo is integrally and non-portably built and that **there is nothing Heo or in Kerchner that suggests, implicitly explicitly, that size was even a consideration**. The examiner would like to direct the applicants' attention to the Kerchner reference, column 8, lines 16-19, to learn that Kerchner does teach to maximize the display area by occupying all the visible surface of the microwave door (fig. 12

In response to the applicants argument that "One would have to move the Braun tube 47 from the device Heo into the door an integral and non-portable manner order to satisfy that particular element of claim 1 (apart from others). This hypothetical exercise would only one performed without suggestion, implicit or explicit, Heo, but also one that **does not find** such a suggestion Kerchner" (page 4, ln. 4-10). The examiner respectfully disagrees and believes that the Heo reference shows the display is integral and non-portable to the microwave and the Kerchner reference does teach to maximize the display area (col. 8, ln. 16-19) by using a microwave door for display. Once again, the examiner wants to stress that the Kerchner reference is used as a secondary reference, at least, to show that in order to maximize the display area, the door of the microwave should be used.

In response to the applicants argument that "Claim 20 calls shield protect and associated components from the affected environment the interior, the display again being integrally and non-portably built into the door. The Examiner admits that the video generating apparatus as claimed claim 9 is not disclosed Heo. Again, references are not combinable and in any event, do not disclose a display that is integrally and non-portably built into the door." Again, the examiner respectfully disagrees. It is the examiner's opinion that the display of Heo is integrally and non-portably built into the microwave and as a result of the combination with the Kerchner reference, the display of Heo is integrally and non-portably built into the door.

In response to the applicants argument that "The Examiner further admits that Heo does not disclose a keyboard for controlling the microprocessor as specified in

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Claim 5. This indicative of the limited nature of Heo. Again, however, there is no suggestion to modify Heo, Heo being fairly limited in its disclosure, just as Kerchner is limited in its disclosure. Heo is concerned with a self-contained unit and not an overall system. Again, the examiner respectfully disagrees. It is the examiner's opinion that Kerchner teaches the using of keyboard to control functions that require text entry (col. 16, ln. 43-51). And therefore, it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify the system of Heo by providing a keyboard for control any other function that require text entry as taught by Kerchner. Doing so would help to make the system users friendly and as a direct result of it, will increase the marketability of the system.

In response to the applicants argument that "While the Examiner turns Kerchner once again, the Kerchner reference fails even in the improper combination as its display integrally and non-portably built into generally planar surface. Once again, the Kerchner reference is quite specific in the removability of the display, with very specific disclosure directed to the surround, recess, the mounting lugs on the door panel, etc. Once again, as set forth above, Applicants consider the combination to fail even if it were proper. With respect the size of the display in Kerchner, there is no disclosure, and the drawings, are inconsistent from drawing to drawing. Certainly, however, the display in Kerchner does not cover one-half the planar surface as set forth claim 12. There would be limitations to overcome in a microwave oven as disclosed in Kerchner or Heo to enlarging the display, and thus would not be something that one of ordinary skill in the art would even consider. Neither reference suggests overcoming these limitations, or

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any desire to reach a size that is one-half of the planar surface." (page 6, ln. 20 - page 7, ln. 5). Again, the examiner respectfully disagrees. The examiner believes that the Heo reference shows the display is integral and non-portable to the microwave and the Kerchner reference does teach to maximize the display area (col. 8, ln. 16-19) by using a microwave door for display. Once again, the examiner wants to stress that the Kerchner reference is used as a secondary reference, at least, to show that in order to maximize the display area, the door of the microwave should be used and that the display in figure 12 of Kerchner covers **about** one-half the planar surface as set forth claim 12, and once again, the examiner would like to direct the applicants' attention to the Kerchner reference, column 8, ln. 16-19, to discover that Kerchner does teach to maximize the display area by occupying all the visible surface of the microwave door (fig. 12).

In response to the applicants argument that "In claim 13, the Examiner admits that Heo and Kerchner do not disclose planar surface having the display integral and non-portable manner, and on different sides of appliance from the door. The Examiner then makes conclusion, without any suggestion whatsoever that it would be obvious to one of ordinary skill the art to display images appliances where the display screen would be different side than the door. **There is absolutely no basis for this conclusion. Nothing the prior art hints to this conclusion.** Again, the examiner respectfully disagrees. The examiner would like to reiterate his rejection as in the Final rejection with regard to claim 13: "Al though, Heo does not particularly disclose that the door and the planar surface are not on the same side of the appliance housing,

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however, Heo also teaches that "it must be clear that the present invention is not limited to a microwave oven but can be employed as another type of cooking apparatus" (col. 1, ln. 60-66). Therefore, it would have been obvious to one of ordinary skilled in the art at the time the invention was made to modify the system of Heo by displaying images on any other cooking devices as further taught by Heo such as gas grill or gas oven and because gas grill or gas oven have much better planar surfaces for display than the door then it would have been obvious to use other surfaces other than the door for display. It is the examiner's opinion that because Heo teaches that "it must be clear that the present invention is not limited to a microwave oven but can be employed as another type of cooking apparatus", it does help an ordinary skilled in the art at the time the invention was made to use any other planar surfaces other than the door for display.

In response the applicants argument "Turning to claim 15, the Examiner admits that Heo and Kerchner, even as combined, do not disclose display cover for selective covering and uncovering of the display. Once again, in a conclusory manner, the Examiner simply justifies the rejection of claim 15 by stating that "well-known" that there is a need to cover display screens to protect from dirt. However, the Examiner has no basis for this justification and thus, for the rejection. Indeed, by way of example only, were one to visit an electronics store at the time of the invention, or even now, one would not find readily available display covers for selective covering and uncovering displays of TVs, computer screens, etc. Moreover, of all references found, none provide such cover. It is not an obvious variant of the invention claim 10. The Examiner cannot

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uphold this rejection merely stating that is well-known to something. This is particularly so, given the other features set forth in independent claim 10." (page 7, ln. 19 – page 8, ln. 3). Again, the examiner respectfully disagrees and maintains that there always is a need to cover any display screens to protect from dirt and that even though, this particular teaching is not disclosed in the prior art but the examiner contends that obviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves **or in the knowledge generally available to one of ordinary skill in the art.**

With respect claim 14 Applicants specifically call out the appliance as being a refrigerator, and indicates that the planar surface is on the side the refrigerator. This claim 14 depends from claim 10 which again includes the display being integrally and non-portably built into the generally planar surface. This claim 14 is rejected on the justification that Roh discloses display on a refrigerator. The display in Roh is an LCD display with a key input and relates solely to the control of the refrigerator as would the display on conventional microwave ovens. The display in Roh is on clearly the door of the refrigerator. There is no suggestion whatsoever to provide the display on any other side the refrigerator, to do so would be antithetical the common use of refrigerator, particularly where most **(not all)** refrigerators have only doors exposed once they are installed for use. Once again, the Examiner has made conclusion without any justification, the Examiner merely stating what is believed to have been obvious. The use hindsight here is classic. There is no suggestion or evidence of obviousness, and

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without same, the rejection must fail. (page 8, ln. 25 – page 9, ln. 11). Again, the examiner respectfully disagrees and since Roh teaches that the display set is located at a predetermined portion of the outer face of the refrigerator to display image and therefore, any available surface of the refrigerator could be used. The examiner agrees with the applicants that most refrigerators have only doors exposed once they are installed for use **but not all** refrigerators have only doors exposed once they are installed for use and to the examiner's own experience, he knows, for years, of at least one refrigerator that have the left planar surface more than half way exposed which can be easily used for display.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nhon T Diep whose telephone number is 703-305-4648. The examiner can normally be reached on m-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris S Kelley can be reached on 703 305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


NHON DIEP
PRIMARY EXAMINER

27 Aug 04